

House Study Bill 78 - Introduced

SENATE/HOUSE FILE _____
BY (PROPOSED SECRETARY OF
STATE BILL)

A BILL FOR

1 An Act relating to the conduct of elections, including general
2 election ballot vacancies, voter registration, elections
3 administration, absentee voting, and vacancies on school
4 boards and merged area governing boards and including
5 effective date and applicability provisions.
6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

DIVISION I

CANDIDATE WITHDRAWAL

Section 1. Section 43.78, Code 2017, is amended by adding the following new subsection:

NEW SUBSECTION. 5. Any candidate nominated to fill a vacancy in accordance with this section may withdraw the candidate's nomination by a written request filed as follows:

a. In the office of the state commissioner, at least seventy-four days before the date of the election.

b. In the office of the proper commissioner, at least sixty-four days before the date of the election.

c. In the office of the state commissioner, in case of a special election to fill vacancies in Congress or the general assembly, not more than:

(1) Twenty days after the date on which the governor issues the call for a special election to be held on at least forty days' notice.

(2) Five days after the date on which the governor issues the call for a special election to be held on at least ten but less than forty days' notice.

d. In the office of the proper commissioner or the state commissioner, as applicable, in case of a special election to fill vacancies, at least twenty-five days before the day of election.

DIVISION II

VOTER REGISTRATION

Sec. 2. Section 39A.2, subsection 1, Code 2017, is amended by adding the following new paragraph:

NEW PARAGRAPH. *Ob. Organizational noncompliance — voter registration.* A third or any subsequent violation of section 48A.22, subsection 2, paragraph "a" or "b".

Sec. 3. Section 39A.4, subsection 1, Code 2017, is amended by adding the following new paragraph:

NEW PARAGRAPH. *Oc. Organizational noncompliance — voter registration.* A second violation of section 48A.22, subsection

1 2, paragraph "a" or "b".

2 Sec. 4. Section 48A.2, Code 2017, is amended by adding the
3 following new subsection:

4 NEW SUBSECTION. 2A. "*Homeless service organization*" means
5 an organization that serves homeless persons and near homeless
6 persons by providing overnight shelter, meals, clothing,
7 transportation, counseling, child care, legal services, medical
8 or mental health services, or traditional housing.

9 Sec. 5. Section 48A.7A, subsection 1, paragraph c, Code
10 2017, is amended to read as follows:

11 c. In lieu of paragraph "b", a person wishing to vote may
12 establish identity and residency in the precinct by ~~written~~:

13 (1) Written oath of a person who is registered to vote in
14 the precinct. The registered voter's oath shall attest to the
15 stated identity of the person wishing to vote and that the
16 person is a current resident of the precinct. The oath must
17 be signed by the attesting registered voter in the presence
18 of the appropriate precinct election official. A registered
19 voter who has signed an oath on election day attesting to a
20 person's identity and residency as provided in this paragraph
21 is prohibited from signing any further oaths as provided in
22 this paragraph on that day.

23 (2) Notarized written affidavit signed by a person who is a
24 law enforcement officer who resides or works within the county
25 that the eligible voter wishes to vote in and who has personal
26 knowledge of the person wishing to vote. The law enforcement
27 officer's oath shall attest to the stated identity of the
28 person wishing to vote and that the person wishing to vote is a
29 current resident of the precinct.

30 (3) Notarized written affidavit signed by a person who is an
31 employee of a homeless service organization who works within
32 the county that the eligible voter wishes to vote in and who
33 has personal knowledge of the person wishing to vote. The
34 homeless service organization employee's oath shall attest to
35 the stated identity of the person wishing to vote and that the

1 person wishing to vote is a current resident of the precinct.

2 Sec. 6. Section 48A.7A, subsection 4, Code 2017, is amended
3 by adding the following new paragraph:

4 NEW PARAGRAPH. c. The form of the notarized affidavit
5 required of a person attesting to the identity and residency of
6 the registrant shall read as follows:

7 I, (name of law enforcement officer or homeless
8 service organization employee), do solemnly swear or affirm all
9 of the following:

10 I am a:

11 ☐ Law enforcement officer.

12 ☐ Homeless service organization employee.

13 I am a resident of the county of, Iowa.

14 I work in the county of, Iowa.

15 I am employed at (street address) in
16 (city or township).

17 I personally know the registrant under the name of
18 (name of registrant), and I personally know
19 that (name of registrant) is a resident of the
20 precinct, ward or township, city of
21, county of, Iowa.

22 I understand that any false statement in this affidavit is
23 a class "D" felony punishable by no more than five years in
24 confinement and a fine of at least seven hundred fifty dollars
25 but not more than seven thousand five hundred dollars.

26

27 Signature of Law Enforcement Officer or Homeless Service
28 Organization Employee

29 Subscribed and sworn before me on (date).

30

31 Signature of Notary

32 Sec. 7. Section 48A.22, Code 2017, is amended to read as
33 follows:

34 **48A.22 Voter registration by volunteer organizations.**

35 1. a. The secretary of state shall encourage volunteer

1 organizations to undertake voter registration drives by
2 providing registration forms.

3 b. The state voter registration commission shall adopt
4 rules in accordance with chapter 17A establishing procedures
5 and requirements for the collection and submission of voter
6 registration forms by volunteer organizations.

7 2. a. A volunteer organization that collects a voter
8 registration form shall submit the form to the appropriate
9 commissioner, regardless of completeness, within seven days of
10 receiving the form from an applicant.

11 b. Notwithstanding paragraph "a", if a volunteer
12 organization collects a voter registration form within forty
13 days of an election, the volunteer organization shall submit
14 the form to the appropriate commissioner, regardless of
15 completeness, within seventy-two hours of receiving the form
16 from an applicant or no later than 5:00 p.m. on the Friday
17 before the election, whichever is earlier.

18 3. For the purposes of this section, a volunteer
19 organization will be considered to have received a voter
20 registration form on the date noted by an applicant on a form.

21 4. A person acting on behalf of a volunteer organization
22 pursuant to subsection 1 who fails to comply with subsection 2,
23 paragraph "a" or "b", commits election misconduct, as follows:

24 a. A first violation constitutes a technical infraction
25 under section 39A.6.

26 b. A second violation constitutes election misconduct in the
27 third degree under section 39A.4.

28 c. A third or any subsequent violation constitutes election
29 misconduct in the first degree under section 39A.2.

30 Sec. 8. Section 48A.27, subsection 2, paragraph a,
31 subparagraph (1), Code 2017, is amended to read as follows:

32 (1) A signed, written notice to the county commissioner
33 in person, by mail, ~~by facsimile,~~ or by electronic mail
34 submission.

35

DIVISION III

ELECTIONS ADMINISTRATION GENERALLY

Sec. 9. Section 49.16, subsection 5, Code 2017, is amended to read as follows:

5. A person shall not serve on the precinct election board as a representative of a political party if the person has changed political party affiliation from that of the political party which selected the person to serve as a precinct election official. If a precinct election official records a change of political party, the official's name shall be removed from the list of precinct election officials for that political party. The chairperson of the political party shall be notified of the vacancy and may designate a replacement. If the chairperson of another political party later designates the person as a precinct election official, the person may serve, if qualified. If a precinct election official serving on the board as a representative of a political party records a change of political party to vote absentee under chapter 53 and after voting absentee records a change of political party back to the political party the official represents on the precinct election board, the official's name shall be removed from the list of precinct election officials for that election. The chairperson of the political party shall be notified of the vacancy and may designate a replacement for that election.

Sec. 10. Section 49.57, subsection 2, Code 2017, is amended to read as follows:

2. In the area of the general election ballot for straight party voting, the party or organization names shall be printed in upper case and lower case letters using a uniform font size for each political party or nonparty political organization. The font size shall be not less than ~~twelve~~ ten point type. After the name of each candidate for a partisan office the name of the candidate's political party shall be printed in at least six point type. The names of political parties and nonparty political organizations may be abbreviated on the remainder of the ballot if both the full name and the abbreviation appear

1 in the "Straight Party" and "Other Political Party" areas of
2 the ballot.

3 Sec. 11. Section 49.104, subsection 7, Code 2017, is amended
4 to read as follows:

5 7. Any person authorized by the commissioner, in
6 consultation with the secretary of state, for the purposes of
7 conducting and attending educational voting programs ~~for youth~~.

8 DIVISION IV

9 ABSENTEE VOTING

10 Sec. 12. Section 53.8, subsection 3, paragraph a, Code 2017,
11 is amended to read as follows:

12 a. When an application for an absentee ballot is received by
13 the commissioner of any county from a registered voter who is a
14 patient in a hospital in that county, a tenant of an assisted
15 living program, as defined in section 53.22, in that county as
16 shown by the list of certifications provided the commissioner
17 under section 231C.21, or a resident of any facility in that
18 county shown to be a health care facility by the list of
19 licenses provided the commissioner under section 135C.29, the
20 absentee ballot shall be delivered to the voter and returned to
21 the commissioner in the manner prescribed by section 53.22.

22 Sec. 13. Section 53.22, Code 2017, is amended to read as
23 follows:

24 **53.22 Balloting by confined persons.**

25 1. a. (1) A registered voter who has applied for an
26 absentee ballot, in a manner other than that prescribed by
27 section 53.10 or 53.11, and who is a resident, tenant, or
28 patient in a health care facility, assisted living program, or
29 hospital located in the county to which the application has
30 been submitted shall be delivered the appropriate absentee
31 ballot by two special precinct election officers, one of whom
32 shall be a member of each of the political parties referred to
33 in section 49.13, who shall be appointed by the commissioner
34 from the election board panel for the special precinct
35 established by section 53.20. The special precinct election

1 officers shall be sworn in the manner provided by section
2 49.75 for election board members, shall receive compensation
3 as provided in [section 49.20](#), and shall perform their duties
4 during the ten calendar days after the ballots are printed if
5 the commissioner so elects, during the fourteen calendar days
6 preceding the election, and on election day if all ballots
7 requested under [section 53.8, subsection 3](#), have not previously
8 been delivered and returned.

9 (2) If materials are prepared for the two special precinct
10 election officials, a list shall be made of all voters to whom
11 ballots are to be delivered. The list shall be sent with the
12 officials who deliver the ballots and shall include spaces
13 to indicate whether the person was present at the hospital,
14 assisted living program, or health care facility when the
15 officials arrived, whether the person requested assistance
16 from the officials, whether the person was assisted by another
17 person of the voter's choice, the time that the ballot was
18 returned to the officials, and any other notes the officials
19 deem necessary.

20 (3) The officials shall also be issued a supply of extra
21 ballots to replace spoiled ballots. Receipts shall be
22 issued in substantially the same form as receipts issued to
23 precinct election officials pursuant to [section 49.65](#). All
24 ballots shall be accounted for and shall be returned to the
25 commissioner. Separate envelopes shall be provided for the
26 return of spoiled ballots and unused ballots.

27 **b.** If an applicant under [this subsection](#) notifies the
28 commissioner that the applicant will not be available at the
29 health care facility, assisted living program, or hospital
30 address at any time during the ten-day period after the ballots
31 are printed, if applicable, or during the fourteen-day period
32 immediately prior to the election, but will be available there
33 at some other time prior to the election or on election day,
34 the commissioner shall direct the two special precinct election
35 officers to deliver the applicant's ballot at an appropriate

1 time preceding the election or on election day. If a person
2 who so requested an absentee ballot has been dismissed from
3 the health care facility or hospital, or is no longer a tenant
4 of the assisted living program, the special precinct election
5 officers may take the ballot to the voter if the voter is
6 currently residing in the county.

7 c. The special precinct election officers shall travel
8 together in the same vehicle and both shall be present when an
9 applicant casts an absentee ballot. If either or both of the
10 special precinct election officers fail to appear at the time
11 the duties set forth in [this section](#) are to be performed, the
12 commissioner shall at once appoint some other person, giving
13 preference to persons designated by the respective county
14 chairpersons of the political parties described in section
15 49.13, to carry out the requirements of [this section](#). The
16 persons authorized by [this subsection](#) to deliver an absentee
17 ballot to an applicant, if requested, may assist the applicant
18 in filling out the ballot as permitted by [section 49.90](#). After
19 the voter has securely sealed the marked ballot in the envelope
20 provided and has subscribed to the oath, the voted absentee
21 ballots shall be deposited in a sealed container which shall be
22 returned to the commissioner on the same day the ballots are
23 voted. On election day the officers shall return the sealed
24 container by the time the polls are closed.

25 2. Any registered voter who becomes a patient, tenant, or
26 resident of a hospital, assisted living program, or health
27 care facility in the county where the voter is registered to
28 vote within three days prior to the date of any election or on
29 election day may request an absentee ballot during that period
30 or on election day. As an alternative to the application
31 procedure prescribed by [section 53.2](#), the registered voter
32 may make the request directly to the officers who are
33 delivering and returning absentee ballots under [this section](#).
34 Alternatively, the request may be made by telephone to the
35 office of the commissioner not later than four hours before

1 the close of the polls. If the requester is found to be a
2 registered voter of that county, these officers shall deliver
3 the appropriate absentee ballot to the registered voter in the
4 manner prescribed by [this section](#).

5 3. For any election except a primary or general election
6 or a special election to fill a vacancy under [section 69.14](#),
7 the commissioner may, as an alternative to [subsection 1](#), mail
8 an absentee ballot to an applicant under [this section](#) to be
9 voted and returned to the commissioner in accordance with this
10 chapter. [This subsection](#) only applies to applications for
11 absentee ballots from a single health care facility, assisted
12 living program, or hospital if there are no more than two
13 applications from that facility, program, or hospital.

14 4. The commissioner shall mail an absentee ballot to a
15 registered voter who has applied for an absentee ballot and
16 who is a patient, tenant, or resident of a hospital, assisted
17 living program, or health care facility outside the county in
18 which the voter is registered to vote.

19 5. *a.* If the registered voter becomes a patient, tenant,
20 or resident of a hospital, assisted living program, or health
21 care facility outside the county where the voter is registered
22 to vote within three days before the date of any election or
23 on election day, the voter may designate a person to deliver
24 and return the absentee ballot. The designee may be any person
25 the voter chooses except that no candidate for any office to be
26 voted upon for the election for which the ballot is requested
27 may deliver a ballot under [this subsection](#). The request for
28 an absentee ballot may be made by telephone to the office of
29 the commissioner not later than four hours before the close of
30 the polls. If the requester is found to be a registered voter
31 of that county, the ballot shall be delivered by mail or by the
32 person designated by the voter. An application form shall be
33 included with the absentee ballot and shall be signed by the
34 voter and returned with the ballot.

35 *b.* Absentee ballots voted under [this subsection](#) shall be

1 delivered to the commissioner no later than the time the polls
2 are closed on election day. If the ballot is returned by mail
3 the return envelope must be received by the time the polls
4 close, or be clearly postmarked by an officially authorized
5 postal service or bear an intelligent mail barcode traceable
6 to a date of entry into the federal mail system not later than
7 the day before the election and received by the commissioner no
8 later than the time established for the canvass by the board of
9 supervisors for that election.

10 6. Observers representing candidates, political parties,
11 or nonparty political organizations, or observers who are
12 opponents or proponents of a ballot issue to be voted on at
13 the election are prohibited from being present at a hospital,
14 assisted living program, or health care facility during the
15 time the special precinct election officers are delivering
16 absentee ballots to the patients, tenants, or residents of such
17 hospital, assisted living program, or health care facility.

18 7. For purposes of this section and section 53.8, "assisted
19 living program" means a program certified pursuant to section
20 231C.3 that meets the standards for a dementia-specific
21 assisted living program, as established by rule by the
22 department of inspections and appeals.

23 Sec. 14. Section 53.37, subsection 3, paragraph e, Code
24 2017, is amended to read as follows:

25 e. Citizens of the United States who do not fall under any
26 of the categories described in paragraphs "a" through "d",
27 but who are entitled to register and vote pursuant to section
28 48A.5, subsection 4 or 5.

29 Sec. 15. NEW SECTION. 231C.21 **Certification list to county**
30 **commissioner of elections.**

31 To facilitate the implementation of section 53.8, subsection
32 3, and **section 53.22**, the director shall provide to each county
33 commissioner of elections at least annually a list of each
34 certified dementia-specific assisted living program in that
35 county. The list shall include the street address or location,

1 and the mailing address if it is other than the street address
2 or location, of each program.

3

DIVISION V

4

SCHOOL ELECTIONS

5 Sec. 16. Section 260C.11, subsection 1, Code 2017, is
6 amended to read as follows:

7 1. The governing board of a merged area is a board of
8 directors composed of one member elected from each director
9 district in the area by the electors of the respective
10 district. Members of the board shall be residents of the
11 district from which elected. Successors shall be chosen at
12 the regular school elections for members whose terms expire.
13 The term of a member of the board of directors is four years
14 and commences at the organizational meeting. Vacancies on
15 the board shall be filled at the next regular meeting of the
16 board by appointment by the remaining members of the board. A
17 member so chosen shall be a resident of the district in which
18 the vacancy occurred and shall serve until a member is elected
19 pursuant to at the next school election or intervening special
20 election held for the merged area, in accordance with section
21 69.12 to fill the vacancy for the balance of the unexpired
22 term. A vacancy is defined in [section 277.29](#). A member shall
23 not serve on the board of directors who is a member of a board
24 of directors of a local school district or a member of an area
25 education agency board.

26 Sec. 17. Section 279.6, subsection 1, paragraph b,
27 subparagraphs (1) and (2), Code 2017, are amended to read as
28 follows:

29 (1) If within fourteen days after publication of a notice
30 required pursuant to paragraph "a" for a vacancy that occurs
31 more than one hundred eighty days before the next regular
32 school election, or after the filing period closes pursuant
33 to section 277.4, subsection 1, for the next regular school
34 election, there is filed with the secretary of the school board
35 a petition requesting a special election to fill the vacancy,

1 an appointment to fill the vacancy is temporary until a
2 successor is elected and qualified, and the board shall call a
3 special election pursuant to [section 279.7](#), to fill the vacancy
4 for the remaining balance of the unexpired term.

5 (2) If within fourteen days after publication of a notice
6 required pursuant to paragraph "a" for a vacancy that occurs one
7 hundred eighty days or less but more than forty days before the
8 next regular school election there is filed with the secretary
9 of the school board a petition requesting to fill the vacancy
10 by election, an appointment to fill the vacancy is temporary
11 until a successor is elected and qualified, and the school
12 board shall require that the remaining balance of the unexpired
13 term be filled at the next regular school election.

14 Sec. 18. EFFECTIVE UPON ENACTMENT. The section of this
15 division of this Act amending section 260C.11, being deemed of
16 immediate importance, takes effect upon enactment.

17 Sec. 19. RETROACTIVE APPLICABILITY. The section of
18 this division of this Act amending section 260C.11 applies
19 retroactively to July 1, 2016.

20 EXPLANATION

21 The inclusion of this explanation does not constitute agreement with
22 the explanation's substance by the members of the general assembly.

23 This bill relates to the conduct of elections, including
24 general election ballot vacancies, voter registration,
25 elections administration, absentee voting, and vacancies on
26 school boards and merged area governing boards.

27 Division I of the bill specifies that a candidate nominated
28 by a political party to fill a vacancy on the general election
29 ballot may withdraw the candidate's name from nomination by
30 written request filed with the state commissioner of elections
31 (secretary of state) or proper county commissioner of elections
32 (county auditor), with deadlines for withdrawal as specified
33 in the bill.

34 Division II of the bill relates to voter registration. Under
35 the division, certain law enforcement officers and employees

1 of homeless service organizations are allowed to attest, by
2 notarized written affidavit, to the identity and residency of
3 eligible voters for election day and in-person absentee voter
4 registration purposes.

5 Division II of the bill requires volunteer organizations
6 that accept voter registration forms from applicants to submit
7 the forms received to the appropriate county commissioner
8 of elections within specified periods of time following
9 their receipt. Under the bill, a person who violates these
10 provisions commits election misconduct. A first violation
11 of these provisions constitutes a technical infraction, a
12 second violation constitutes election misconduct in the third
13 degree (a serious misdemeanor), and any subsequent violations
14 constitute election misconduct in the first degree (a class "D"
15 felony). A serious misdemeanor is punishable by confinement
16 for no more than one year and a fine of at least \$315 but
17 not more than \$1,875. A class "D" felony is punishable by
18 confinement for no more than five years and a fine of at least
19 \$750 but not more than \$7,500. Under the bill, the state voter
20 registration commission is required to adopt rules establishing
21 procedures and requirements for the collection and submission
22 of voter registration forms by volunteer organizations.

23 Division II of the bill also provides that a registered voter
24 may request changes in the voter's registration by signed,
25 written notice transmitted by electronic submission, rather
26 than facsimile or electronic mail.

27 Division III of the bill, relating to the administration of
28 elections, prohibits a representative of a political party on
29 a precinct election board from changing political parties to
30 vote absentee in the election for which they are serving as a
31 representative. The bill requires that the official's name be
32 removed from the list of precinct election board members for
33 that election. The bill also lowers the minimum font size for
34 printing the names of political parties or nonparty political
35 organizations on the area of the ballot for straight party

1 voting. Additionally, current law allows county commissioners
2 of elections to permit individuals to be present at polling
3 places for the purposes of any educational voting program for
4 youth. The bill removes the requirement that the program be
5 for youth.

6 Division IV of the bill, relating to absentee voting, allows
7 tenants of dementia-specific assisted living programs to vote
8 by absentee ballot in the same manner allowed for patients or
9 residents in hospitals or health care facilities. Under the
10 bill, the department of inspections and appeals is required to
11 provide a list of dementia-specific assisted living programs
12 certified under Code section 231C.3, and as defined in rule.

13 Relating to absent voting by overseas citizens, the bill
14 provides that a United States citizen is eligible to vote
15 absentee as a uniformed or overseas voter if the citizen is
16 living outside the United States, has a parent who can vote as
17 a uniformed or overseas voter, and has never resided in the
18 United States, but meets all other requirements for voting.

19 Division V of the bill relates to school elections. The bill
20 specifies that a person appointed to fill a vacancy on a merged
21 area governing board will serve until a member is elected at
22 the next school election or at an intervening special election
23 held for the merged area. This provision takes effect upon
24 enactment and applies retroactively to July 1, 2016.

25 Division V of the bill also requires county commissioners
26 of elections to conduct a special election to fill a vacancy
27 on a school board if a valid petition is filed and if the
28 vacancy occurs after the filing period for the next regular
29 school election has closed. Under current law, such vacancies
30 are required to be filled at the election for which the
31 filing period has closed. Under current Code section 277.4,
32 subsection 1, nomination petitions are required to be filed
33 by not later than 5:00 p.m. on the 40th day before the school
34 election.